

IC 36-7-11.2

Chapter 11.2. Meridian Street Preservation

IC 36-7-11.2-1

Purpose of chapter

Sec. 1. (a) The purpose of this chapter is to preserve:

- (1) from deterioration;
- (2) from improperly conceived or implemented change; and
- (3) for the continued health, safety, enjoyment, and general welfare of the citizens of Indiana;

a historic, scenic, esthetically pleasing, and unique part of a street lying within Indianapolis constituting the backbone of a unique residential area.

(b) The general assembly intends, by passage of this chapter, to:

- (1) encourage private efforts to maintain and preserve that part of the street and other similar streets and areas in Indiana;
- (2) promote orderly and proper land usage; and
- (3) preserve significant tourist attractions of historical and economic value in Indiana;

by limiting and restricting unhealthful, unsafe, unaesthetic, or other use of unique areas that would be inconsistent with their character as tourist attractions and with the general welfare of the public.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-2

"Bordering property" defined

Sec. 2. As used in this chapter, "bordering property" means a parcel of land:

- (1) of which any part lies within one thousand (1,000) feet from any part of the right-of-way of Meridian Street; and
- (2) that:
 - (A) is within a radius of seven hundred fifty (750) feet from; and
 - (B) lies north or south of;

the north or south terminus of Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" refers to the Meridian Street preservation commission established by this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-4

"Department of metropolitan development" defined

Sec. 4. As used in this chapter, "department of metropolitan development" refers to the department of metropolitan development established by IC 36-3-5-4, subject to IC 36-3-4-23.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-5

"Development commission" defined

Sec. 5. As used in this chapter, "development commission" refers to the metropolitan development commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-6

"Family" defined

Sec. 6. (a) As used in this chapter, "family" means any number of individuals who:

- (1) are all related to each other by marriage, consanguinity, or legal adoption; and
- (2) live together as a single household with a single head of the household.

(b) The term includes the following:

- (1) Live-in paid domestic employees.
- (2) Not more than two (2) nontransient guests of the household.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-7

"Interested party" defined

Sec. 7. As used in this chapter, "interested party" means the following:

- (1) The governor.
- (2) The Indiana department of transportation.
- (3) The department of natural resources.
- (4) The executive of Indianapolis.
- (5) The department of metropolitan development.
- (6) The society.
- (7) Each neighborhood association.
- (8) Each owner or occupant owning or occupying Meridian Street or bordering property to a depth of two (2) ownerships of the perimeter of the property.
- (9) An owner, occupant, or other person having a legal or equitable interest in the subject property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-8

"Meridian Street" defined

Sec. 8. As used in this chapter, "Meridian Street" means that part of a north-south meridian street in the city of Indianapolis, Marion County, known as Meridian Street, that lies:

- (1) north of 40th Street; and
- (2) south of Westfield Boulevard;

at the points where the latter two (2) streets intersect with Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-9

"Meridian Street property" defined

Sec. 9. As used in this chapter, "Meridian Street property" means a parcel of land of which any part lies within one hundred (100) feet due west or east of any part of the right-of-way for Meridian Street.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-10

"Neighborhood association" defined

Sec. 10. As used in this chapter, "neighborhood association" means each of the following, including any successors whether an incorporated or unincorporated association:

- (1) The Butler-Tarkington neighborhood association.
- (2) The Meridian Street foundation.
- (3) The Meridian-Kessler neighborhood association.
- (4) The Riverview-Kessler neighborhood association.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-11

"Notice" defined

Sec. 11. As used in this chapter, "notice" means written notice:

- (1) served personally upon the person, official, or office entitled to the notice; or
- (2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The department of metropolitan development.

(E) An occupant, to:

- (i) the person by name; or
- (ii) if the name is unknown, to the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the township assessors in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-12

"Occupant" defined

Sec. 12. As used in this chapter, "occupant" means a person:

- (1) occupying:
 - (A) under a written lease; or
 - (B) as an owner; and
- (2) using for residential purposes;

a single family or double family residential dwelling located on Meridian Street or bordering property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-13

"Owner" defined

Sec. 13. As used in this chapter, "owner" means a person who owns a legal or an equitable interest in Meridian Street or bordering property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-14

"Person" defined

Sec. 14. As used in this chapter, "person" means an individual, a corporation, a partnership, an association, a trust, a governmental body or agency, or other entity, public or private, capable of entering into an enforceable contract.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-15

"Single family or double family residential dwellings" defined

Sec. 15. As used in this chapter, "single family or double family residential dwellings" means residential structures that:

- (1) do not share a common wall with any other residential structures;
- (2) were designed and built for occupancy by not more than two (2) separate families; and
- (3) contain not more than two (2) separate living quarters.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-16

"Society" defined

Sec. 16. As used in this chapter, "society" refers to the Indiana historical society or the successor to the society.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-17

"Subject property" defined

Sec. 17. As used in this chapter, "subject property" means Meridian Street or bordering property or existing or proposed construction on the property:

- (1) that is the subject of:
 - (A) a filing made with;
 - (B) a hearing or meeting of; or
 - (C) an appeal from;

the commission; or

(2) with respect to which there is claimed to be a violation of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-18

Establishment of commission

Sec. 18. The Meridian Street preservation commission is established.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-19

Number of members of commission

Sec. 19. The commission consists of nine (9) members as follows:

(1) Five (5) members are Class 1 members whose terms of office expire June 30 of each even-numbered year.

(2) Four (4) members are Class 2 members whose terms of office expire June 30 of each odd-numbered year.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-20

Appointment of architect and professional city planner

Sec. 20. The executive of Indianapolis shall appoint the following members of the commission not later than thirty (30) days after the term of the prior member appointed under this section expires:

(1) As a Class 1 member, an architect registered under IC 25-4-1 who at the time of appointment is a practicing architect residing in Marion County.

(2) As a Class 2 member, an employee of the department of metropolitan development who is employed by the department at the time as a professional city planner. If the individual ceases to be an employee of the department, the individual is considered to have resigned as a member of the commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-21

Appointment of member with knowledge of historic preservation and owner of dwelling on Meridian Street property

Sec. 21. The governor shall appoint the following members of the commission not later than thirty (30) days after the term of the prior member appointed under this section expires:

(1) As a Class 1 member, an individual with a demonstrated interest in and knowledge of historic preservation.

(2) As a Class 1 member, an owner and occupant of a single or double family residential dwelling situated on Meridian Street property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-22

Appointment of additional members from lists submitted by

neighborhood associations and society

Sec. 22. (a) The governor shall appoint five (5) additional members of the commission by selecting one (1) name from each of five (5) separate lists submitted by four (4) neighborhood associations and the society. Each list must contain the names of at least two (2) nominees. The members appointed under this section are classified as follows:

- (1) As Class 1 members, the members submitted by the following:
 - (A) Butler-Tarkington Neighborhood Association.
 - (B) The Meridian-Kessler Neighborhood Association.
- (2) As Class 2 members, the members submitted by the following:
 - (A) The Meridian Street Foundation.
 - (B) The Riverview-Kessler Neighborhood Association.
 - (C) The Indiana historical society.

(b) The successor to a member selected from a list shall be selected from a list of at least two (2) nominees submitted by the same organization.

(c) If:

- (1) the term of a member of the commission appointed from a list of nominees submitted by an organization has expired or a member has died or resigned during a term; and
- (2) the organization has not submitted a list of nominees for a successor not later than thirty (30) days after the expiration, death, or resignation;

the governor shall immediately appoint an interim member of the commission to serve until the organization submits a list of nominees and an appointment is made.

(d) The governor shall, not later than thirty (30) days after the receipt of a list from an organization, appoint as a member of the commission one (1) of the nominees set forth in the list.

(e) If an organization ceases to exist and is without a successor, the governor shall appoint to the commission in place of the member who would otherwise have been nominated by the organization a person who is an owner and occupant of any Meridian Street or bordering property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-23

Holding over membership upon expiration of member's term

Sec. 23. Each member of the commission, upon the expiration of the member's term, holds over as a member with all rights of membership until a successor is appointed and qualified.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-24

Death or resignation of member

Sec. 24. (a) If a member of the commission dies or resigns during a term, a successor with the same qualifications shall be appointed to complete the term not later than thirty (30) days after the death or resignation. The appointment shall be made in the same manner as the original appointment.

(b) For purposes of this section, failure to attend three (3)

consecutive regular meetings of the commission is considered a resignation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-25

Service without compensation

Sec. 25. Members of the commission serve without compensation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-26

Chairman

Sec. 26. The commission member who is an employee of the department of metropolitan development serves as chairman of the commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-27

Adoption of rules

Sec. 27. The commission shall prepare, adopt, and promulgate the rules and regulations that are necessary, desirable, or convenient to the orderly administration of commission affairs and to the implementation of this chapter in accordance with the intent and purpose. The rules and regulations shall be made available in writing to any person requesting a copy.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-28

Filing and records

Sec. 28. Notices, petitions, requests, or other written materials to be filed with the commission shall be filed with the department of metropolitan development and directed to the attention of the commission. The department of metropolitan development shall:

(1) maintain; and

(2) make available for public inspection;

all records of the commission at the offices of the department of metropolitan development.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-29

Alternate persons on whom notice may be served

Sec. 29. (a) A public officer or office entitled to receive notice may designate in writing filed with the commission alternate or additional persons to whom notice required to be served upon the officer or office shall also be served. The commission shall maintain a complete list of the persons and their addresses.

(b) A person, an official, or an office who or that is not served notice in the manner prescribed by this chapter is not considered properly notified unless the person has waived notice in writing.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-30

Attorney for commission

Sec. 30. The attorney general, or a deputy attorney general selected by the attorney general, is the attorney for the commission. The commission may employ other legal counsel that the commission considers necessary, convenient, or desirable.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-31

Regular meetings

Sec. 31. (a) The rules and regulations of the commission must specify a particular time on a particular day of the week in a particular week of the month for holding regular meetings to consider any matters properly coming before the commission. Except as provided in subsection (b), the commission shall regularly meet at the designated time, if there is any matter requiring consideration or determination as specified in this chapter.

(b) The commission may designate in the rules and regulations July or August as a vacation month during which the commission will not hold a regular meeting despite the existence of matters requiring consideration or determination. A person desiring the commission to consider or determine any matter that is within the commission's jurisdiction under this chapter must, at least thirty (30) days before a regular meeting date of the commission upon which the person desires the commission to determine or consider the matter, file with the commission a petition that does the following:

- (1) Specifies in detail the matter the petitioner desires the commission to consider or determine.
- (2) Requests that the matter be placed upon the commission's docket for matters to be considered and determined at the meeting.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-32

Special meetings

Sec. 32. (a) The chairman of the commission:

- (1) may, in the chairman's discretion; or
- (2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

- (1) not less than thirty (30); and
- (2) not more than forty-five (45);

days after the filing of the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-33

Continuance of matters on docket

Sec. 33. For good cause shown the chairman of the commission may, at or before a regular or special meeting, continue any matter

docketed for consideration or determination at the meeting until:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-34

Evidence required

Sec. 34. The commission may, before a hearing on a petition filed with the commission, require the person filing the petition or a person whose interests appear adverse to those of the petitioner to file with the commission before the hearing the following:

- (1) Maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or any other technical or graphic materials.
- (2) Additional information concerning the petitioner's or the adverse person's intentions or interest with respect to Meridian Street or bordering property.
- (3) Any other additional information that the commission considers relevant to the matters concerning the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-35

Quorum

Sec. 35. (a) A quorum of the commission consists of six (6) members. A quorum must be present for a public hearing on and the determination of a matter coming before the commission for which a public hearing is required under this chapter.

(b) Except as otherwise provided in this chapter, a majority vote of the members of the commission present and voting is required for the commission to take action.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-36

Members not disqualified from hearing and voting on matters

Sec. 36. (a) A member of the commission is not disqualified from hearing and voting upon a matter coming before the commission because the member:

- (1) owns or occupies a Meridian Street or bordering property; or
- (2) belongs to a neighborhood association.

(b) A member of the commission may abstain from voting on a matter if the member states the reasons in the record.

(c) A member of the commission is disqualified from voting if:

- (1) the member is an owner or occupant of:
 - (A) the subject property; or
 - (B) Meridian Street or bordering property of which a part lies within one hundred (100) feet of the subject property; or
- (2) the member is a person described by section 56(a)(2)(D) of this chapter.

(d) If by virtue of the abstention of a member of the commission there is not present at a hearing upon a matter at least six (6) members of the commission able to vote on the matter, the chairman shall redocket the matter for a hearing or rehearing at:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-37

Private deliberations

Sec. 37. (a) Upon the conclusion of the hearing on a matter and before the voting, the commission members shall, if requested by:

- (1) the petitioner;
- (2) an interested party; or
- (3) a commission member;

deliberate in private before voting.

(b) The commission shall, before voting, consider conditions proposed to the commission at the hearing by a person, including a commission member, concerning the restrictions, limitations, commitments, or undertakings that might be required by the commission as the condition of a vote favorable to the petitioner.

(c) The commission may:

- (1) on the commission's own motion; or
- (2) at the request of a person;

before voting on a matter, continue the matter to a future meeting so that the petitioner and a person appearing adverse to the petitioner might privately agree upon the restrictions, limitations, commitments, or undertakings to be proposed to the commission as a condition to a vote by the commission favorable to the petitioner.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-38

Written final orders

Sec. 38. (a) Not later than thirty (30) days after a vote by the commission finally determining a matter, the commission shall enter a written final order stating the following:

- (1) The names of the members present and voting.
- (2) Whether the vote cast by each member was negative or affirmative.
- (3) The basic facts found by the members whose vote for or against the petitioner determined the matter.

(b) If a tie vote occurs, the petition is considered to be determined adversely to the petitioner, with the members casting a vote adverse to the petitioner considered to be the majority.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-39

Temporary orders

Sec. 39. (a) If the commission determines affirmatively a matter

conditioned upon:

- (1) the observance by a person of a restriction or limitation; or
- (2) the commitment made by or the undertaking of a person;

the commission shall, not later than ten (10) days after the vote determining the matter conditionally, enter a temporary order setting forth the restriction, limitation, commitment, or undertaking.

(b) The commission shall enter a final order approving the petition upon and after a hearing at which the petitioner must satisfy the commission that the restriction, limitation, commitment, or undertaking has been formalized so that an interested party may enforce the restriction, limitation, commitment, or undertaking in a private action.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-40

Proposed temporary or final orders

Sec. 40. (a) Not later than five (5) days after the commission has determined a matter by vote, other than a rezoning matter referred to the commission by the development commission, a party who appeared at the hearing shall, upon request of the commission, file with the commission a proposed temporary or final order.

(b) A proposed final order must state in detail the basic facts that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter.

(c) A proposed temporary order must state the basic facts:

- (1) that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter; and
- (2) upon which the commission could properly have required a restriction, a limitation, a commitment, or an undertaking as a condition to a final affirmative determination of the matter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-41

Action based on verbal assurances or unwritten agreements

Sec. 41. The commission may not take action on a petition, approve a proposed rezoning or zoning variance, or issue a certificate of appropriateness based upon verbal assurances or unwritten agreements or commitments made by a person concerning any of the following:

- (1) A future use or development of the subject property.
- (2) A restriction or limitation in the character, nature, or style of a contingent, possible, or proposed use or construction:
 - (A) for which the person seeks; or
 - (B) that would be permitted by;the rezoning, zoning variance, or certificate of appropriateness.
- (3) An undertaking concerning the planning, design, or implementation of a contingent or possible use or proposed construction.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-42

Written agreement required

Sec. 42. (a) The commission may, by the vote of at least six (6) of the members, or for a certificate of appropriateness by a majority of the members, as a condition of approval of a zoning variance or of issuance of a certificate of appropriateness, require:

- (1) the petitioner;
- (2) a person described by section 56(a)(2)(D) of this chapter; and
- (3) the owner of the land for which the zoning variance or certificate of appropriateness is sought;

to prepare and execute in a form acceptable by the commission and to file with the commission a written agreement notarized by each signatory party.

(b) By the agreement signed under subsection (a) each party agrees for the party and for the party's heirs, successors, and assigns, and for a party with a legal or equitable interest in the subject property, covenants for the party and for a successor to the legal or equitable interest in the property, to be bound by the following:

- (1) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the future use or development of or construction upon the subject property.
- (2) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the character, nature, or style of a proposed, contingent, or possible use or construction:
 - (A) for which the zoning variance or certificate of appropriateness is sought; or
 - (B) that would be permitted by the zoning variance or certificate of appropriateness.
- (3) Undertakings that the commission has, in the furtherance of the intent and purpose of this chapter, required concerning the planning, design, or implementation of a proposed, contingent, or possible use or construction.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-43

Requirements of written agreement

Sec. 43. An agreement signed under section 42 of this chapter must do the following:

- (1) Refer to the proceeding before the commission.
- (2) Contain a full legal description of the subject property.
- (3) Specifically provide for the following:
 - (A) That the agreement is contingent upon the grant of a variance for or issuance of a certificate of appropriateness concerning the subject property.
 - (B) That the agreement will be construed strictly against those parties from whom the agreement is required by the commission.
 - (C) That the agreement, if executed by a party with a legal or equitable interest in the subject property, is intended to create a covenant that:

- (i) runs with the subject property; and
- (ii) is binding upon the successors to the fee or to an interest in the fee.

(D) That the agreement is intended to benefit and to be enforced by a person who, under this chapter, would be considered an interested party concerning the subject property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-44

Filing of agreement

Sec. 44. A petitioner shall do the following:

(1) File an agreement signed under section 42 of this chapter, including a request for a public hearing, at least fourteen (14) days before the regular meeting of the commission at which the petitioner requests the hearing.

(2) On or before the date of the filing, serve in the manner notices must be served under this chapter a copy of the request and the agreement upon the following:

(A) Each neighborhood association.

(B) Each interested party who, not later than five (5) days after the hearing for which the commission entered a temporary order concerning the zoning variance or the certificate of appropriateness sought by the petitioner, filed with the commission a request that the agreement or request be served upon the interested party.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-45

Voting on agreement

Sec. 45. (a) If after a public hearing the commission approves in form and substance, by the vote of:

(1) at least six (6) members; or

(2) for a certificate of appropriateness, a majority of the members present;

the agreement as filed, the commission shall enter a final order expressing the commission's approval of the zoning variance or issuance of the certificate of appropriateness as sought by the petitioner.

(b) The commission shall, at the petitioner's expense, immediately file the agreement with the Marion County recorder.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-46

Amended agreement

Sec. 46. (a) If after a public hearing the commission disapproves the agreement in form or substance, the petitioner shall, under a temporary order of the commission, make and cause to be executed an amended agreement meeting the commission's requirements as to form and substance.

(b) If the petitioner fails or refuses, for longer than sixty (60) days after entry of a temporary order requiring the petitioner to do so, to file

an amended agreement meeting with commission requirements for form and substance, the commission may require the petitioner to appear at a meeting of the commission and show cause why the petition of the petitioner should not be dismissed.

(c) If the petitioner fails:

- (1) to appear at the meeting; or
- (2) to show good and sufficient cause why the petition should not be dismissed;

the commission shall, upon the vote of a majority of the members, dismiss the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-47

Abrogation of agreement

Sec. 47. (a) A covenant or an agreement made under this chapter may be abrogated by six (6) affirmative votes of the commission upon petition and after notice to all interested parties and a public hearing if the commission determines that the covenant or agreement no longer accomplishes in a substantial manner any of the purposes of this chapter.

(b) A covenant or agreement is considered abrogated upon dissolution of the commission under section 66 of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-48

Minutes of meetings

Sec. 48. (a) The commission shall keep complete minutes of meetings. The minutes must reflect the following:

- (1) Action taken by the commission.
- (2) The reasons for the action.
- (3) The factors considered by the commission in taking the action.

(b) Copies of the minutes of a meeting shall be provided to a person requesting a copy.

(c) An interested party who desires a transcript of a matter heard by the commission may, at the interested party's expense, have a transcript prepared.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-49

Fees

Sec. 49. (a) The commission shall, by rule adopted under section 27 of this chapter, set fees to be paid by a person filing a petition with the commission. If the commission has not set a fee by rule for a type of petition, the fee is twenty-five dollars (\$25).

(b) A person filing a petition with the commission shall pay the fee required for the filing to the department of metropolitan development. The department shall pay the fee to the treasurer of the commission.

(c) The department of metropolitan development has no duty regarding the fees collected under this section except those imposed under subsection (b). Fees collected under this section:

- (1) do not belong to the consolidated city created under IC 36-3;

and

(2) are not subject to any of the following:

(A) IC 5-11-10.

(B) IC 36-2-6.

(C) IC 36-3.

(D) IC 36-4-8.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-50

Acceptance of money for administration

Sec. 50. The commission may accept money from any source for use in administering this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-51

Approval for zoning variance

Sec. 51. An administrative, a legislative, or other governmental body may not grant a zoning variance relating to the use of Meridian Street or bordering property without the prior approval of the commission upon the affirmative vote of at least six (6) members. The commission may approve the variance only if:

(1) the petition establishes by substantial evidence of probative value the correctness of the conclusions stated in section 53 of this chapter; and

(2) notices of the hearing have been given to all interested parties in the manner required by this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-52

Conditions to be met before petition approval

Sec. 52. (a) The development commission may not:

(1) approve a petition for the amendment or adoption of a zoning ordinance pertaining or applying to Meridian Street or bordering property; or

(2) adopt or amend an ordinance to the extent the ordinance pertains or applies to Meridian Street or bordering property;

until the conditions required by section 51 of this chapter have been met.

(b) The following must occur before the development commission may take action under subsection (a):

(1) Notice of the filing of the petition before the development commission has been given by the petitioner to all interested parties not later than ten (10) days after the filing.

(2) The matter has been referred to the commission, which has:

(A) considered the matter applying the standards stated in section 53 of this chapter and made a recommendation to the development commission; or

(B) failed to make a recommendation for one hundred twenty (120) days following the referral of the matter to the commission for the commission's recommendations, unless the time has been extended by the development commission for

good cause shown.

(3) A duly advertised public hearing on the matter has been held by the development commission.

(4) The conclusions stated in section 53 of this chapter have been established by substantial evidence of probative value.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-53

Prohibited results of variance or ordinance

Sec. 53. The conclusions required by sections 51 and 52 of this chapter are that the requested variance, the proposed new zoning ordinance, or the amendment to an existing zoning ordinance will not do any of the following:

(1) Tend to undermine or detract from the general residential character of the following:

(A) Meridian Street.

(B) Meridian Street property.

(C) Bordering property lying between Meridian Street property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(2) Affect in an adverse manner the value for single family residential usage of the following:

(A) Meridian Street property.

(B) Bordering property lying between Meridian Street property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(3) Alter or adversely affect, either in inherent nature or method of implementation, the historic or architectural character or style of the area comprised of:

(A) Meridian Street and bordering property; or

(B) the part of the area comprised of the property lying within five hundred (500) feet of the subject property.

(4) If the request is a zoning variance, violate a rule or regulation that the commission has adopted to accomplish the purposes of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-54

Notice of filing of petition; referral to commission; reconsideration

Sec. 54. (a) Notice of:

(1) the filing of a petition with the commission for approval of a proposed use variance; and

(2) the filing of a petition with the development commission for approval of an amendment or the adoption of a zoning ordinance pertaining or applying to Meridian Street or bordering property;

is jurisdictional.

(b) Before referral of a matter to the commission, the development commission or other referring body must be satisfied of the following:

(1) That proper notice of the filing of the petition as required by this chapter has been given.

- (2) That copies of:
 - (A) all petitions, exhibits, drawings, pictures, and other documents intended to be offered in support of the proposed new zoning ordinance or amendment to an existing zoning ordinance; and
 - (B) the contract described by section 56 or 57 of this chapter; have been made available to the commission without expense to the commission.
 - (c) If the development commission discovers, upon hearing, substantial departure from, addition to, or modification of materials presented to the commission, the matter shall be remanded to the commission for an additional sixty (60) day period for reconsideration and further recommendation, if any. The commission may, however, take additional evidence that the commission considers necessary for the purpose of making recommendations on the proposed new zoning ordinance or amendment to an existing zoning ordinance.
 - (d) The development commission or other referring body:
 - (1) shall thoughtfully consider the recommendations of the commission; and
 - (2) may overrule or ignore the recommendations only if the recommendations are:
 - (A) unsupported by substantial evidence; or
 - (B) contradicted by a clear preponderance of the evidence; presented before the development commission.
- As added by P.L.1-1995, SEC.83.*

IC 36-7-11.2-55

Provisions inapplicable to considerations of rezoning matters; procedures

- Sec. 55. (a) The provisions of this chapter concerning:
- (1) meetings and hearings of the commission; and
 - (2) the manner in which matters will be taken up and considered by the commission;
- do not apply in the commission's consideration of rezoning matters referred to the commission by the development commission.
- (b) With respect to the matters described in subsection (a), the commission may by rule determine procedures to dispose of the matters within the mandatory one hundred twenty (120) day period.
- As added by P.L.1-1995, SEC.83.*

IC 36-7-11.2-56

Requirements of petition for zoning variance or for subject property

- Sec. 56. (a) A petition that is filed by a person seeking approval of the commission for a zoning variance of or for subject property must:
- (1) be under oath; and
 - (2) state the following:
 - (A) The full name and address of the petitioner and of each attorney acting for and on behalf of the petitioner.
 - (B) The street address.
 - (C) The name of the owner of the property.

(D) The full name and address of and the type of business, if any, conducted by:

(i) a person who at the time of the filing is a party to; and
(ii) a person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into; a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(E) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(F) The date of the regular meeting of the commission at which the petitioner requests the petition be considered and determined.

(G) A detailed description of the proposed use for which the zoning variance is sought.

(H) Other information that the commission requires by rule or regulation.

(b) A petition must be accompanied by the following:

(1) A true copy of each contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement described in the petition.

(2) The maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or other technical or graphic materials that the commission requires by rule or regulation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-57

Additional requirements for petition for amended zoning ordinance for Meridian Street or bordering property

Sec. 57. (a) A petition that is filed by a person requesting the adoption of a new zoning ordinance or the amendment of an existing zoning ordinance directly pertaining to or affecting Meridian Street or bordering property must, in addition to all other applicable requirements concerning the petitions generally:

(1) be under oath; and

(2) state the following:

(A) The street address of the Meridian Street or bordering property to which the new zoning ordinance or amendment to an existing zoning ordinance would directly pertain or affect.

(B) The name of each owner of the property.

(C) The name and address of each person, including principals, if any, who at the time of filing is a party to a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement, excluding

insurance policies, mortgage deeds, fuel service contracts, and similar documents, concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property. The petition must also describe all businesses in which the persons, jointly or severally, are engaged.

(D) A detailed description of the proposed use for which the new zoning ordinance or amendment of an existing zoning ordinance is sought.

(E) Other information that the development commission requires by rule or regulation.

(b) The petition must be accompanied by the following:

(1) A complete copy of each contract described by subsection (a)(2)(C) or a description of the contract sufficient to disclose the full nature of the interest of the party and principals, if any, in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(2) Other documents that the development commission requires by rule or regulation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-58

Notice of petition for new or amended zoning ordinance

Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical

properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in the offices of the township assessors as of the date of filing are considered determinative of the persons who are owners.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-59

Prohibited new or altered structures on Meridian Street

Sec. 59. A new structure may not be erected upon a parcel of Meridian Street property or an existing structure upon the property may not be altered if the structure would do any of the following:

(1) Permit a residential usage that, in relation to the parcel upon which situated, would be of a substantially greater density than the average residential density of Meridian Street property lying within one thousand (1,000) feet of the property in question, excluding for purposes of determining the average Meridian Street property used for multiple family residential or commercial purposes.

(2) Appear substantially smaller or larger in size and scale than the average size and scale of the single and double family residential dwellings situated upon Meridian Street property lying within one thousand (1,000) feet of the property in question.

(3) Have a set-back from Meridian Street significantly less than the average set-back of structures facing upon Meridian Street that are situated upon Meridian Street property lying within one thousand (1,000) feet of the property in question.

(4) Have side lots measuring less than fifteen (15) feet from the property line of the subject property to the wall of the structure erected or altered.

(5) If primarily a residential dwelling, have a ground floor area of less than two thousand (2,000) square feet or forty percent (40%) of the total area of the parcel of land upon which the dwelling lies, whichever is less.

(6) Including all other structures upon the parcel, have a total ground floor area greater than fifty percent (50%) of the total area of the parcel of land upon which the structure lies.

(7) Substantially encroach upon the view and exposure of a residential structure on a neighboring property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-60

Subdivision of Meridian Street property

Sec. 60. A parcel of Meridian Street property may not be subdivided into lots having:

- (1) an area of less than fifteen thousand (15,000) square feet; or
- (2) frontage of less than one hundred (100) feet upon Meridian Street or upon an east-west street intersecting with Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-61

Conditions for constructing, reconstructing, altering, or demolishing Meridian Street property

Sec. 61. (a) A person may not construct on Meridian Street property a structure or feature or reconstruct, alter, or demolish Meridian Street property unless the following conditions have been met:

- (1) The person has previously filed with the commission an application for a certificate of appropriateness in the form and with the plans, specifications, and other materials that the commission prescribes.
- (2) A certificate of appropriateness has been issued by the commission as provided in this section.

(b) After the filing of an application for a certificate of appropriateness, the commission shall determine whether the proposed construction, reconstruction, or alteration of the structure in question:

- (1) will be appropriate to the preservation of the area comprised of Meridian Street and bordering property; and
- (2) complies with the architectural and construction standards then existing in the area.

(c) In determining appropriateness, the commission shall consider, in addition to other factors that the commission considers pertinent, the historical and architectural style, general design, arrangement, size, texture, and materials of the proposed work and the relation of the proposed work to the architectural factor of other structures in the area. The department of metropolitan development may not issue a permit for the construction, reconstruction, alteration, or demolition of a structure in the area unless the application for the permit is accompanied by a certificate of appropriateness.

(d) The issuance of or refusal to issue a permit is a final determination appealable under section 64 of this chapter. With respect to a certificate of appropriateness, the commission may, by rule or regulation, provide for:

- (1) the public hearings;
- (2) notice of the hearings; or
- (3) the filing of the application for the certificate;

that the commission considers necessary.

(e) Notwithstanding this section, the commission may, by rule or regulation:

- (1) define; and
- (2) exempt from the application of this section;

specific types and categories of construction, reconstruction,

alterations, and demolition for which the commission determines commission action and review are not necessary or desirable to effect the purposes of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-62

Restrictions on owners and occupants of Meridian Street or bordering property

Sec. 62. (a) As used in this section, "bedroom" means a room that:

- (1) consists of not less than eighty (80) usable square feet and one (1) built-in closet; and
- (2) is located on or above the first floor of a structure.

(b) Each owner and occupant of Meridian Street or bordering property shall do the following:

- (1) Permit not more than one (1) family to inhabit a single family dwelling.
- (2) Permit not more than two (2) families to inhabit a double family dwelling.
- (3) Permit to inhabit a dwelling unit not more than the number of individuals derived by multiplying the total number of bedrooms in the unit by three (3).
- (4) Maintain and prevent cleared areas from becoming overgrown.
- (5) Permit no trash, scrap, refuse, dead matter, or other debris of any kind to accumulate on the property so as to make:
 - (A) the property unhealthful, unsightly, or dangerous; or
 - (B) a residential structure or other structure appurtenant to a residential structure unsuitable for the residential or appurtenant purposes.
- (6) Maintain in good repair and appearance all exterior surfaces.
- (7) Maintain in good and safe repair all walls, roofs, foundations, ceilings, floors, stairways, or other structures upon the property.
- (8) Repair promptly broken windows or panes of glass in a structure upon the property.
- (9) Secure from unauthorized access an unused or unoccupied structure upon the property.
- (10) Maintain in a safe, habitable condition each residential structure upon the property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-63

Private right of action with respect to Meridian Street or bordering property

Sec. 63. (a) Each interested party:

- (1) has a private right of action to:
 - (A) enforce; and
 - (B) prevent violation of;this chapter; and

- (2) may, with respect to Meridian Street or bordering property:
 - (A) restrain or enjoin, temporarily or permanently, a person from violating; and

(B) enforce by restraining order or injunction;
this chapter.

(b) The powers described in subsection (a) include the following:

(1) To enforce written commitments, agreements, or covenants made in accordance with or under this chapter.

(2) To prevent and obtain full relief from a threatened or existing violation of section 59, 60, 61, or 62 of this chapter.

(3) To prevent:

(A) a person from seeking or having the benefits of; or

(B) a governmental body from granting;

a rezoning of or zoning variance for Meridian Street or bordering property for which the commission or development commission for rezoning has not granted prior approval in the manner required by this chapter.

(4) To:

(A) prevent construction, reconstruction, alteration, or demolition work upon; and

(B) obtain full relief from work previously done upon;

Meridian Street property for which a certificate of appropriateness was required but was not issued by the commission. A showing that issuance of certificates of appropriateness for the work could not properly have been denied by the commission if a proper application had been made is a complete defense to an action under this subdivision.

(5) To prevent further construction work upon and obtain full relief from construction work previously done upon Meridian Street property that fails in a substantial manner to comply with all the terms and conditions:

(A) of a certificate of appropriateness issued by the commission; or

(B) of the petition and documents filed with the commission upon which the commission is presumed to have based approval of the certificate.

(6) To prevent usage of Meridian Street or bordering property for which a rezoning or zoning variance:

(A) would be required; and

(B) has not been obtained.

(7) To prevent a violation of the terms and conditions of the approval by the commission of a zoning variance as petitioned for and obtained from the commission.

(c) For purposes of obtaining relief sought under this section, it is not necessary to allege or prove irreparable harm or injury to a person or property. A person entitled to bring an action under this section is not required to post a bond unless the court, after a hearing, determines that a bond should be required in the interests of justice. A person who brings an action under this section is not, however, liable to a person for any damages resulting from the bringing or prosecuting of the action unless the action was not brought:

(1) in good faith; or

(2) in the reasonable belief that:

(A) this chapter; or

(B) a commitment, an agreement, or a covenant entered into under section 42 of this chapter;

had been or was about to be violated or breached.

(d) The person against whom an action is brought under subsection (a) is liable to the interested party bringing the action for reasonable attorney's fees and court costs if judgment is entered by the court against the person.

(e) An action arising under this section must be brought in the circuit or superior court of Marion County, and a change of venue from the county is not permitted.

(f) The remedy provided in this section is not exclusive but is cumulative to any other remedies available at law or equity.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-64

Judicial review

Sec. 64. (a) A final determination by the commission is subject to judicial review. An interested party aggrieved by a determination may file with the circuit or superior court of Marion County a verified petition for writ of certiorari stating that the determination is illegal in whole or part. The petition must be filed not later than sixty (60) days after the date of the final determination. A change of venue is not permitted in a cause of action arising under this section.

(b) Upon the filing of a petition for writ of certiorari the petitioner shall have a copy of the petition served upon each interested party in the manner provided in this chapter for service of notice. Upon adequate showing by the petitioner that a copy of the petition has been served, the circuit or superior court shall enter an order directing the commission to show cause not later than thirty (30) days from the entry of the order why a writ of certiorari should not issue. If the commission or an interested party appearing in support of the commission's determination fails to show to the satisfaction of the court that a writ should not issue, the court may allow a writ directed to the commission. The writ must prescribe the time in which a return shall be made to the court. The time:

(1) may not be less than twenty (20) days from the date of the issuance of the writ; and

(2) may be extended by the court on application and on notice to all parties.

(c) The return to the writ of certiorari by the commission must contain copies of all filings, exhibits, and other matters presented to or considered by the commission in connection with the matter and the determination from which the appeal is taken, including a verbatim transcript of the proceedings at each public hearing that was held. The commission shall prepare the return at the expense of the party that filed the petition for certiorari. The return to the writ of certiorari must also show the grounds of the decision that was appealed.

(d) The court may decide and determine the sufficiency of the statements of illegality contained in the petition without further pleadings and may make a determination and enter judgment with reference to the legality of the decision of the commission on the facts

set out in the return to the writ of certiorari. If the court determines that testimony is necessary for the proper disposition of the matter, the court may take evidence to supplement the evidence and facts disclosed by the return to the writ of certiorari. However, a review may not be by a trial de novo, and the court may not consider evidence that should properly or could have been presented to the commission. In passing on the legality of the determination by the commission, the court may:

- (1) reverse;
- (2) affirm, wholly or in part; or
- (3) modify;

the determination of the commission brought up for review. Costs may not be allowed against the commission.

(e) Upon the filing of a petition under this section, the final determination of the commission with respect to which the petition is filed is considered without force and effect pending a final judgment by the court. If the final determination was made with respect to a petition for approval of a proposed rezoning or zoning variance, the approval by the commission is considered nonexistent pending final judgment.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-65

Appeals

Sec. 65. An appeal may be taken to the court of appeals from the final judgment of the court under section 64 of this chapter reversing, affirming, or modifying the determination of the commission in the same manner and upon the same terms, conditions, and limitations as appeals in other civil actions.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-66

Dissolution of commission

Sec. 66. (a) The city-county legislative body may dissolve the commission under this section. Upon dissolution, this chapter ceases to have any force or effect, except with respect to actions previously commenced under section 62 of this chapter.

(b) At least one hundred fifty (150) owners of Meridian Street property or owners of fifty-one percent (51%) of Meridian Street property, whichever is less, may commence a proceeding to dissolve the commission by presenting a petition to do so to the city-county legislative body and by filing a duplicate of the petition with the commission. For purposes of a petition all of the persons having a legal or equitable interest in one (1) parcel of Meridian Street property are considered in the aggregate to be the single owner. For purposes of a petition one (1) parcel of Meridian Street property is considered to include at least two (2) contiguous parcels if the parcels are owned directly or indirectly by the same person. A person is considered an indirect owner of a contiguous parcel if the parcel is owned as follows:

- (1) Jointly with another person.
- (2) By the person with the person's spouse in tenancy by the entirety.

- (3) Directly or indirectly by the person's spouse.
- (4) By a child or grandchild, natural or adopted, unless the child or grandchild is the fee owner and an occupant of the parcel.
- (5) By a trust or an estate of which:
 - (A) the person is a trustee, an executor, or an administrator; or
 - (B) the person is empowered to direct the disposition of the parcel.
- (6) By a partnership of which the person is a limited or general partner.
- (7) By a corporation of which:
 - (A) the person;
 - (B) the person's spouse;
 - (C) the person's children or grandchildren, natural or adopted;
 - (D) a trust or an estate described in subdivision (5); or
 - (E) a partnership described in subdivision (6);owns at least fifty percent (50%) of the voting stock.

(c) A petition presented to the city-county legislative body must state fully and precisely the grounds upon which the petitioners rely in seeking dissolution of the commission. The petition must, with respect to each of the petitioning owners, state accurately and completely the following:

- (1) The street address and the legal description of the property owned.
- (2) The names, addresses, and precise interest in the property of each person who with any other person constitutes the owner for purposes of this section. Each owner must sign the petition and acknowledge the execution before an officer legally entitled to take acknowledgements. If one (1) person signs a petition for or on behalf of another person, the individual signing must establish in a writing filed with the petition the power and authority to act for the person. A writing may include the following:
 - (A) For a corporation, a certified copy of a resolution by the board of directors specifically authorizing the person to execute the petition.
 - (B) For an individual, an executed and acknowledged power of attorney.
 - (C) For a partnership, a certificate of authorization executed and acknowledged by each partner.
 - (D) For an estate, a certified copy of a court order authorizing the action.
 - (E) For a trust, a certified copy of the trust instrument showing the authorization.

(d) Not later than ten (10) days after presenting a petition to the city-county legislative body, the petitioning owners shall serve notice of the petition upon all interested parties, except the petitioning owners. For purposes of the notice all parcels of Meridian Street property are considered, in the aggregate, to be the subject property. The notice must specify the following:

- (1) The date of presentation.
- (2) The names of the petitioning owners.
- (3) The street address of the property of which each is the owner.

(e) The city-county legislative body may not consider a petition until more than sixty (60) days have elapsed since the date of presentation and shall at all times make the petition available for examination by any person. The city-county legislative body shall, not less than ten (10) days before the date of the meeting at which the city-county legislative body proposes to consider the petition, do the following:

(1) Give public notice.

(2) Serve notice upon each neighborhood association and the commission.

(f) Before taking action on a petition, the city-county legislative body shall permit the petitioning owners and all parties appearing in opposition to the petition to have a full and adequate hearing.

(g) If the city-county legislative body dissolves the commission by resolution, the action is void unless the following conditions are met:

(1) The petitioning owners have complied fully with this section.

(2) The city-county legislative body's action is based upon a competent, substantial, and convincing showing that the continued existence of the commission and the continued operation of this chapter will not with any likelihood or to any significant degree accomplish purposes for which this chapter was enacted. In taking action the city-county legislative body may not consider testimony, argument, or other showing that continued existence of the commission or continued effectiveness of this chapter promotes or will promote continued single or double family dwelling residential usage of Meridian Street property at the expense of the value the property would or might otherwise have if freed from the restrictions of this chapter on commercial and multiple family residential development or usage of the property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-67

Cumulative nature of chapter

Sec. 67. This chapter is cumulative to and does not supersede, preempt, or invalidate a zoning, building, health, or other law, ordinance, or code in effect as of April 16, 1971, except to the extent the law, ordinance, or code is in irreconcilable conflict with this chapter. If an irreconcilable conflict exists, only those parts of the law, ordinance, or code that conflict with this chapter are inapplicable as the parts pertain to the subject matter of this chapter.

As added by P.L.1-1995, SEC.83.